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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/548,235	04/12/2000	Thomas Mark Levergood	1984.1001-004	6069

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EXAMINER	
WINDER, PATRICE L	

ART UNIT	PAPER NUMBER
2145	

DATE MAILED: 02/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/548,235	LEVERGOOD ET AL.	
	Examiner	Art Unit	
	Patrice Winder	2145	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *29 December 2004 and 21 November 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-12* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☒ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *11-21-05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Oath/Declaration

1. This application presents a claim for subject matter not originally claimed or embraced in the statement of the invention. The "method for charging for advertising on the web" and "the method for measuring the effectiveness of advertising" not claimed in the parent application. A supplemental oath or declaration is required under 37 CFR 1.67. The new oath or declaration must properly identify the application of which it is to form a part, preferably by application number and filing date in the body of the oath or declaration. See MPEP §§ 602.01 and 602.02.

2. Applicant's argument on page 2 of the response filed on December 29, 2004 is not persuasive. Applicant argues the features, for lack of a better word are "substantially embraced" by the original disclosure. However, the examiner notes that applicant fails to argue that the limitations are substantially the "same". To the examiner this distinction is significant. As evidence of the fact that applicant does not see present the invention as "substantially the same" as originally filed claims of the parent application is its status as a divisional of the originally filed application.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 1 and 6 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable

one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has not provided a detailed disclosure of "charging for advertising based on link traversals to the page". The examiner is aware of page 14, line 24 - page 15, line 6 of the disclosure.

5. Claims 4-5 and 9-11 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. Applicant has not provided a detailed disclosure of "measuring the number of sales or transactions resulting from link traversals". The examiner is aware of page 14, line 24 - page 15, line 6 of the disclosure.

6. It is generally understood that the state of the art at the time of the invention as understood by the inventor can be determined by the degree of detail in the disclosure and that which is left for one of ordinary skill in the art to perform is presumed to be within the skill in the art to perform. As applicant has supplied no detail enabled of this alleged nonobvious process by which to "charge for advertising based on link traversals to the page" and "measure the number of sales or transactions resulting from link traversals". Therefore, it is presumed to be within the skill of the art (*In re Fox 176 USPQ 340*).

7. The concept of "charging for advertising" is well known in many enterprises such as print media for example. Applicant's disclosure fails to "disclose" or provide "written

description" for how well-known techniques utilized in other industries are adapted to facilitate "charging for advertising" based on link transversals.

Response to Amendment

8. The affidavit filed on May 14, 2004 under 37 CFR 1.131 has been considered but is ineffective to overcome the Catledge and Novick reference.

9. For any supplemental evidence to considered applicant must submitted this supplemental evidence with a properly executed affidavit under 37 CFR 1.131.

Claim Rejections - 35 USC § 102

10. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

11. Claims 1 and 3 are rejected under 35 U.S.C. 102(a) as being anticipated by Gary Welz, The Media Business on the WWW: The Price and Value of Advertising on the WWW (hereafter referred to as Welz), .

12. Regarding claim 1, Welz taught a method of charging for advertising on the Web (abstract), comprising:

determining link traversals leading to a page ("Users will be able to gain access through the MecklerWeb, a large number of users will enter via MecklerWeb."); and

charging for advertising based on link traversals to the page ("Sponsors ... will pay $25,000 per year for the right to have link to their own WWW pages ...").

13. Regarding dependent claim 3, Welz taught charging for advertising is based on the number for sales resulting from a path including an advertising page ("Sponsors ... will pay $25,000 per year for the right to have link to their own WWW pages ... bring traffic to your pages and new customers...").

Claim Rejections - 35 USC § 103

14. The text of those sections of Title 35, U.S. Code § 103 not included in this action can be found in a prior Office action.

15. Claims 2, 4-5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Welz in view of Wecker, USPN 5,806,077 (hereafter referred to as Wecker).

16. Regarding dependent claim 2, Welz taught charging for advertising is based on the large number of users from an advertising page to a product page ("a large number of users will enter via MecklerWeb"). Welz does not specifically teach a number of link traversals. However, Wecker taught a number of link traversals (column 4, lines 36-41). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Wecker's counting links in Welz' system for pricing advertising on the WWW improved system effectiveness. The motivation would have been to also have knowledge of the "publishers" which brought the product to the user.

17. Regarding claim 4, Welz taught a method of evaluating the effectiveness of advertising on the Web (abstract) comprising:

determining link traversals leading from an advertisement to a page ("Users will be able to gain access through the MecklerWeb, a large number of users will enter via MecklerWeb."); and

using user new customer sales resulting from link traversals from the advertisement to the page ("Sponsors ... will pay $25,000 per year for the right to have link to their own WWW pages ... bring traffic to your pages and new customers..."). Welz does not specifically teach measuring the number of user requests. However, Wecker taught measuring the number of users requests (column 4, lines 36-41). For motivation for combination see claim 2, above.

18. Regarding claim 5, Welz taught a method of evaluating the effectiveness of advertising on the Web (abstract), comprising:

determining link traversals from an advertisement to a page ("Users will be able to gain access through the MecklerWeb, a large number of users will enter via MecklerWeb."); and

using user new customer transactions resulting from link traversals from the advertisement to the page ("Sponsors ... will pay $25,000 per year for the right to have link to their own WWW pages ... bring traffic to your pages and new customers..."). Welz does not specifically teach measuring the number of user requests. However, Wecker taught measuring the number of users requests (column 4, lines 36-41). For motivation for combination see claim 2, above.

19. Claims 6-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wecker in view of Welz.

20. Regarding claim 6, Weckler taught a method for charging for advertising on the Web (abstract), comprising:

tracking access history (column 1, lines 42-44), including a link sequence through which a document is accessed (column 1, lines 23-29);

determining, based on the access history, link traversals from a first document to a second document (column 4, lines 24-27);

determining a number of such determined link traversals leading from the first document to the second document (column 4, lines 35-41).

21. Wecker does not specifically teach charging for advertising based on the number of link traversals to the second document. However, Welz taught charging for advertising based on the number of link traversals to the second document ("Sponsors ... will pay $25,000 per year for the right to have link to their own WWW pages ... bring traffic to your pages and new customers..."). It would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Wecker's counting links in Welz' system for pricing advertising on the WWW improved system effectiveness. The motivation would have been to also have knowledge of the "publishers" which brought the product to the user.

22. Regarding dependent claim 7, Wecker taught a link traversal is determined responsive to two entries in the access history, a first entry corresponding to a request from a given user for the first document and a second entry corresponding to a request from the given user for the second document (column 1, lines 24-26 and column 4, lines 42-43).

23. Regarding dependent claim 8, Welz taught the first document is an advertising page and the second document is a product page ("Sponsors ...have a link to their own WWW pages placed within a given MecklerWeb domain.").

24. Regarding dependent claim 9, Welz taught further comprising:

user requests for sales resulted from a traversed path which includes the advertising page, wherein charging for advertising is based on the sales ("Sponsors ... will pay $25,000 per year for the right to have link to their own WWW pages ... bring traffic to your pages and new customers..."). Wecker taught counting the number of user requests (column 4, lines 36-41).

25. Regarding dependent claim 10, Welz taught further comprising:

user requests for purchases resulting from a traversed path which includes the advertising page, wherein charging for advertising is based on the sales ("Sponsors ... will pay $25,000 per year for the right to have link to their own WWW pages ... bring traffic to your pages and new customers..."). Wecker taught counting the number of user requests (column 4, lines 36-41).

26. Regarding dependent claim 11, Welz taught further comprising:

user request for transactions resulting from link traversals from the advertisement to the second page, the number of such purchases being a measure of advertising effectiveness ("Sponsors ... will pay $25,000 per year for the right to have link to their own WWW pages ... bring traffic to your pages and new customers..."). Wecker taught counting the number of user requests (column 4, lines 36-41).

27. Regarding dependent claim 12, Wecker taught further comprising:

filtering transaction logs from at least one server for a particular user to produce the access history (column 4, lines 48-53).

28. Claims 1-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Catledge et al., Characterizing Browsing Strategies in the World-Wide Web (hereafter referred to as Catledge) in view of Bob Novick, The Clickstream (hereafter referred to as Novick).

29. Regarding claim 6, Catledge taught a method for characterizing browsing on the web (abstract), comprising:

tracking access history, including a link sequence through which a document is accessed(log files of World-Wide Web accesses, page 4);

determining, based on the access history, link traversals from a first document to a second document (sequences of accesses or paths);

determining a number of such determined link traversals leading from the first document to the second document (frequency determination by site analysis module, page 5). Catledge does not specifically teach charging for advertising based on the number of link traversals to the second document. However, Novick taught charging for advertising based on the number of link traversals to the second document (paths to end sites, paragraphs 1, 4).

30. Regarding dependent claim 7, Catledge taught a link traversal is determined responsive to two entries in the access history, a first entry corresponding to a request from a given user for the first document and a second entry corresponding to a request

from the given user for the second document (log file of World-Wide Web accesses, page 4).

31. Regarding dependent claim 8, Novick taught the first document is an advertising page and the second document is a product page (paragraphs 1, 3, 4).

32. Regarding dependent claim 9, Catledge taught counting the frequency resulting from a traversed path which includes the specified page (site analysis module, page 5). Catledge does not specifically teach the frequency is number of sales, the specified page is the advertising page and charging for advertising is based on the frequency. However, Novick taught the number of sales (clicks at storefronts translate to sales, paragraph 1), the specified page is the advertising page (paragraph 3) and charging for advertising is based on the number of sales (paragraph 4).

33. The language of claims 10-11 is substantially the same as dependent claim 9. Therefore, claims 10-11 are rejected on the same rationale as claim 9.

34. Regarding dependent claim 12, Catledge taught filtering transaction logs from at least one server for a particular user to produce the access history (site analysis module, page 5).

35. The language of claims 1-5 is substantially the same as claims 6-12, above. Therefore, claims 1-5 are rejected on the same rationale as claims 6-12.

36. As to claims 1-12, it would have been obvious to one of ordinary skill in the art at the time the invention was made that incorporating Novick's charging for advertising in Catledge's system for characterizing browsing would have improved system efficiency. The motivation would have been to use the information determined from characterizing

user browsing sessions and utilize the established advertising model of charging rates based on cost per thousand.

Response to Arguments

37. Applicant's arguments filed December 29, 2004 have been fully considered but they are not persuasive.

38. Applicant argues -Accordingly, Welz cannot be considered prior art for the purposes of the rejection until a definitive publication date or retrieval date is established. Until such time, Applicants submit that the 102 rejection is improper and should be withdrawn."

a. The examiner was unable to duplicate applicant's actions and discover a statement referring to the "Proceeding of the Second WWW Conference".

Conclusion

39. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Patrice Winder whose telephone number is 571-272-3935. The examiner can normally be reached on Monday-Friday, 10:30 am-7:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Cardone can be reached on 571-272-3933. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Patrice Winder
Primary Examiner
Art Unit 2145

February 17, 2006